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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,870	11/14/2002	Colin Henry Hamilton	DUMME18.001APC	2920
20995	7590	10/17/2005	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP			PICKETT, JOHN G	
2040 MAIN STREET			ART UNIT	
FOURTEENTH FLOOR			PAPER NUMBER	
IRVINE, CA 92614			3728	

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/070,870

Applicant(s)

HAMILTON ET AL.

Examiner

Gregory Pickett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6-13 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3,6,7,12,13 and 15 is/are allowed.
- 6) ☒ Claim(s) 8-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/5/05.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5 August 2005 has been entered. Claims 1-3, 6-13, and 15 are pending in the application. Claims 4, 5, and 14 have been canceled.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

3. Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cockburn (US 6,041,930) in view of Coggsell (US 5,529,188).

Regarding claims 8, and 11, Cockburn discloses a sachet (Figures 1-4) comprising a semi-rigid member **11** with a weakened region **15**, and a reservoir **14** formed by a first flexible film layer **13** overlaid by second flexible film layer **12** and adapted to contain flowable substance **19**. The first flexible film layer **13** includes aperture region **16** and is sealed to semi-rigid member **11** over its entire area, including the area immediately surrounding the aperture region. Cockburn is capable of resealing

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inasmuch as the applicant's invention and meets all limitations claimed by the applicant except for the aperture comprising a rupturable film component.

Cockburn forms aperture **16** by punching a hole in film **31** at station **24**.

Coggsell discloses an aperture region (intersecting lines **30**) formed on an inner seal from scored lines **30**. It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the aperture of Cockburn by simply scoring the sheet (as taught by Coggsell) instead of completely punching through the film in order to provide a complete double seal over the compartment and improve the strength of the seal while maintaining the aperture feature.

As to claim 9, weakened region **15** of Cockburn is a score line.

As to claim 10, second flexible film layer **12** and first flexible film layer **13** of Cockburn are formed from separate film members **31** and **32**, which are sealed in their peripheral regions by rollers **34** and **35**.

Allowable Subject Matter

4. Claims 1-3, 6, 7, 12, 13, and 15 define over the prior art.

5. The following is an examiner's statement of reasons for allowance:

In the examiner's opinion, the prior art (as exemplified by Cockburn and Beguhn) neither discloses, nor fairly suggests the provision of an annular seal surrounding the aperture region in combination with the remaining claimed subject matter. Annular is defined as being of, relating to, or forming a ring. While the prior art teaches the sealing

of the entire surface between the two films, there appears to be no suggestion for an annular seal.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

6. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Response to Arguments

7. Applicant's arguments filed 5 August 2005 have been fully considered but they are not persuasive.

8. In response to the applicant's arguments concerning there being no motivation in Cockburn to combine with the Coggsell reference, the motivation for modifying a primary reference need not come from the primary reference itself, but may come from a secondary reference. *In re Laskowski*, 10 USPQ2d 1397 (Fed. Cir. 1989).

9. In response to the applicant's arguments concerning the adherence between layers **13** and **11** of Cockburn, the examiner agrees that the means by which Cockburn

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is formed would effect the adherence of the aperture region to the semi-rigid layer, however, when using the X-shape taught by Coggsell, the aperture of film **13** (as modified by the scoring of Coggsell) would still be able to be formed. Placing the intersection of the X-shape over the score line **15** enables the opening of the aperture upon breaking of the score line. Semi-rigid layer **15** actually breaks apart and separates upon opening, and since the portions of the scoring would be adhered to the two different broken sections, the opening movement shown in Figure 3 would effect the breaking and subsequent opening of the aperture region of film **13** (as modified by the scoring of Coggsell) and enable the release of the retained liquid or paste. It is noted that only a small opening need be provided for the release of a liquid.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pickett whose telephone number is 571-272-4560. The examiner can normally be reached on Mon-Fri, 11:30 AM - 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Greg Pickett
Examiner
7 October 2005



Mickey Yu
Supervisory Patent Examiner
Group 3700